## A RESOLUTION BY THE DETROIT CITY COUNCIL

## RESOLUTION APPEALING GOVERNOR SNYDER'S DETERMINATION THAT A SATISFACTORY PLAN DOES NOT EXIST TO ADDRESS THE LOCAL GOVERNMENT FINANCIAL EMERGENCY IN THE CITY OF DETROIT

- WHEREAS It is City Council's firm belief that the City has developed, in concert with the adoption of milestones and recommendations by the State of Michigan, a satisfactory plan to address the local government financial emergency and that appointment of an emergency financial manager (EFM) by the Local Emergency Financial Assistance Loan Board under the Emergency Municipal Loan Act, MCL 141.931 et seq., is not the best course of action at this time; and
- WHEREAS This plan, which addresses the four major considerations referenced by the Detroit Financial Review Team's February 19, 2013, report to Governor Snyder, is comprised of the following three (3) items:
  - a) The existing Financial Stability Agreement (FSA), a consent agreement pursuant to MCL 141.1214(1)(c), which became effective on April 4, 2012. This agreement was crafted and negotiated with the State to jointly undertake a long-term cooperative process to restructure operations and tackle the accumulated deficit of the City while improving quality of life and increasing reinvestment, businesses and jobs in the City of Detroit; and
  - b) The Memorandum of Understanding (MOU), dated November 13, 2012, commonly referred to as the Milestone Agreement, which sets timetables and benchmarks for completion of specifically identified restructuring tasks contained in the FSA; together with
  - c) The joint cash plan developed over the December 2012 recess period by the Bing Administration, City Council, with financial (Ernst & Young) and legal (Miller Canfield P.L.C.) consultants. It is important to note this joint cash plan was also recommended and reviewed by the State and presented to the Detroit Financial Review Team for critique. This plan was designed to effectively resolve the City's acute 'cash crisis' by implementing structural changes such as layoffs, revenue initiatives, pension and healthcare changes as well as short-term cash opportunities such as increased collections, asset sales, cash conservation efforts coupled with accumulated property tax distributions, and \$30 million in proceeds from the escrow account which will result in a positive net cash flow going into FY 2014; and
- WHEREAS These measures, viewed collectively, form not only a "satisfactory plan", but a cogent plan to address the City's financial emergency without the need for the appointment of an EFM. The shared goal of improved fiscal and operational health of the City can be accomplished through the initiatives agreed to in the FSA, given the time to achieve the projected results. In the short period of time since the FSA has been in effect, notwithstanding legal challenges, existing labor agreements and Act 312 binding arbitration requirements, the City has made measurable progress toward the goals outlined in the document; and

- WHEREAS In compliance with the requirements of the FSA and at the direction of the State, the City has entered into contracts with financial, accounting and restructuring consultants. Many of the consultant contracts (Milliman, Conway MacKenzie, Miller Buckfire, Automatic Data Processing, Miller Canfield, Plante and Moran, Hewitt Associates, and Ernst & Young) were recently authorized by City Council and the consultants have not completed their assessments and provided recommendations to the City on a variety of issues including restructuring and long-term debt liabilities. The anticipated recommendations can be implemented by the City, with assistance from the State where necessary; and
- WHEREAS This appeal seeks continued implementation of the aforementioned plan with enhancements to be provided by the consultants. This preferred course of action will be supported through oversight of the Financial Advisory Board (FAB), the revenue consensus process, and the restoration of powers of the Program Manager under the new Local Financial Emergency Law (PA 436 of 2012); and
- WHEREAS The City, working together with the aid of consultants and the necessary assistance of the State, can address the long-term debts and liabilities with much more effectiveness than an EFM. The City, as reflected in all its cash flow documents, is committed to meeting all debt service payments; and
- Appointment of an EFM has not solved the fiscal crises within Detroit Public WHEREAS Schools, or the Cities of Pontiac, Flint or Benton Harbor, MI and it will not solve the fundamental problems associated with the City of Detroit's current fiscal plight caused by the compounded effects of severe population decline, loss of property taxes, de-industrialization and unprecedented unemployment, sustained high crime levels and under-performing schools. The City's finances are symptomatic of these root problems and appointment of an EFM will not directly address these significant challenges. Rather, steady growth and improvement in Detroit can be achieved through thoughtful measures holistically applied by the City itself with continued partnership with the State and assistance from the financial and restructuring consultants, all of which is progressing; and
- WHEREAS EFMs currently in place throughout Michigan have faced significant obstacles and in most instances have failed to achieve meaningful progress and, in some instances, have increased financial distress. These municipalities, such as Benton Harbor, Pontiac, and Allen Park, are considerably smaller than Detroit with fewer complexities; and
- WHEREAS According to Moody's, one of the nation's leading bond rating agencies, an emergency manager appointment could trigger a termination event associated with a series of credit swaps made by the City in 2006 to fund some pension liabilities, forcing a \$400 million payment-money the City does not have; and
- WHEREAS The current state of affairs in Detroit took decades to evolve and requires a longterm approach to achieve the restructuring goals, reverse the decline and stabilize the City of Detroit. The health of Detroit affects the viability and attractiveness of the region, as well as the state. Considering this fact, it is imperative that this

process result in a financially stable, prosperous, and competitive Detroit. This big picture goal is compatible with the current plan being jointly implemented by the State and City government, but not generally compatible with the singular fiscal focus of an EFM; and

WHEREAS The Financial Review Team report relied on by Governor Snyder also cites revenue collection from 36th District Court citations, over which the City has no administrative control, that are outstanding in the amount of \$279 million dollars (approximately \$199 million owing to the City, \$76 million dollars would flow to the State). This is a partnership opportunity for the City and State. The State of Michigan could greatly assist the City by exercising its administrative authority over lower courts to improve 36th District Court operations and collection efforts; and

WHEREAS Previous partnership opportunities that need to be moved forward include income tax collection, in which the State previously agreed to assist, as well as finalization of the transfer of Department of Human Services functions through the State's ongoing RFP process; and

WHEREAS It should also be noted that the City of Detroit has undertaken numerous actions to "right-size" its budget and staffing levels. Over the last nine (9) years the City has reduced its workforce by 45%, from 20,799 employees in 2003 to 11,396 in 2012, a number that continues to decline; and

WHEREAS Additionally, 15 of the 21 items listed in the FSA under Annex B (City's Operational Reform Program) have been or are in the process of being completed and the City anticipates meeting the remaining requirements in Annex C during the upcoming budget cycle. All of the employment contracts ratified since the FSA was adopted have included all of the provisions set forth in Annex D; and

WHEREAS The City has also been able to partner with other entities to further reduce the cost to the City for providing certain services while minimizing the impact on citizens by entering into management agreements for the operation of strategic City assets. In March of 2006, the City approved operating agreements for the Historical Museum as well as the Zoological Park and the Belle Isle Nature Zoo. In July 2006, the Eastern Market agreement took effect and since that time the City and Eastern Market Corporation have partnered on major capital and operational improvements benefiting the area, not just the market itself. More recently, the City approved the transfer of Cobo Hall to the Detroit Regional Convention Authority (September 2009) and established the Public Lighting Authority; and

WHEREAS The aforementioned Public Lighting Authority (PLA) was listed in Annex B of the FSA. The proposed bill was pending in the State Legislature for one year and the legislation was passed in December 2012. By February 2013, City Council had approved the Articles of Incorporation, screened and interviewed potential candidates, and appointed board members. The PLA Board conducted its first meeting on March 1, 2013; and

- WHEREAS All of these reforms are taking place during the worst economic climate since the Great Depression. Most importantly, as the Governor acknowledged at his press conference, the City's challenging problems are solvable. This is especially true given that the City's elected leadership shares the goals outlined by the Governor and have been working diligently with the State of Michigan to achieve the goals outlined in the current plan; and
- WHEREAS It is City Council's sincere belief that appointment of an EFM at this point would cause protracted litigation, undermine the democratic structure and reverberate throughout Southeastern Michigan and the nation. It would also result in additional time delays while the EFM gets up to speed to proceed with the plan or, alternatively, proposes a new plan of action. NOW THEREFORE BE IT
- RESOLVED That the Detroit City Council hereby appeals Governor Snyder's determination that a satisfactory plan does not exist to address the local government financial emergency in the City of Detroit and requests a hearing on the matter; and BE IT FURTHER
- RESOLVED That the Detroit City Council affirms that the current plan was <u>negotiated with</u> the State to jointly undertake a long-term cooperative process to restructure operations and tackle the accumulated deficit of the City while improving quality of life and creating a sustainable and stable platform for growth. The plan was designed to ensure the City's financial integrity and should be afforded a meaningful timeframe to achieve its goals; and BE IT FURTHER
- RESOLVED That the Detroit City Council strongly believes that appointment of an EFM based on a finding of the lack of a satisfactory plan is inconsistent with the facts, especially given the State's involvement in creating, modifying and monitoring the plan as well as the ongoing work of consultants and the commitment by City officials to implement the current plan to address the City's financial health; and BE IT FURTHER
- **RESOLVED** That the Detroit City Council reminds the State of Michigan that the 36<sup>th</sup> District Court is under the jurisdiction of the State, which has administrative authority over lower courts and the ability to improve 36th District Court operations and collection efforts; and **BE IT FINALLY**
- RESOLVED That a copy of this resolution be forwarded to Governor Rick Snyder, Treasurer Andy Dillon, Chief Deputy Treasurer Mary G. MacDowell, Clerk of the Ingham County Circuit Court, Clerk of the Wayne County Circuit Court, Detroit Financial Review Team, Financial Advisory Board, Mayor Dave Bing, Program Management Director Kriss Andrews and Chief Financial Officer Jack Martin.